



# Environmental Reviews and Things That May Come Up



# Icebreaker: How Comfortable Are You With the Environmental Review (ER) Process?



- 1 – What is an Environmental Review?
- 2 – I know a little, but still new
- 3 – Fairly comfortable, but I have some questions
- 4 – I should be presenting this training. Watch out, Kelly! I'm coming for your job!





## What is an Environmental Review (ER)?

- An ***environmental review*** is the process used to determine if an action created from the expenditure of federal funds will adversely affect the environment.
- ***Environmental reviews*** are **legally required for any project receiving federal funds** by the **National Environmental Policy Act (NEPA) of 1969 and Related Acts**
  - Federally funded grants include ***all*** CDBG and ARC projects

# Why do we do Environmental Reviews?



- Protect both the environment and the project
- To comply with federal laws – National Environmental Policy Act (NEPA) of 1969, Part 58, and Related Acts



## The National Environmental Protection Act (NEPA) of 1969

- The umbrella that encompasses all environmental factors are considered
- All federally funded grants fall under **NEPA**
- **All** Federal agencies must implement **agency-specific** systems to ensure all environmental aspects are considered during project development





**Appendix 2.R provides HUD specific  
guidance  
to 25 CFR Part 58**

## 24 CFR Part 58.5 and 58.6

- National Historic Preservation Act of 1966
- Floodplain & Wetland Management
- Floodplain Management—E.O. 11988
- Wetlands Protection—E.O. 11990
- Coastal Zone Management Act of 1972
- Safe Drinking Water Act of 1974 (Sole Source Aquifers)
- Endangered Species Act of 1973
- Wild and Scenic Rivers Act of 1968
- Clean Air Act
- Farmland Protection Policy Act of 1981
- Environmental Justice—E.O. 12898
- HUD Environmental Standards (Noise, Explosives and Thermal, Runway Clear Zone)

**Appendix 2.A pages 5-33 show the  
Statutory Checklist and the worksheet  
for completion**





# What is the Environmental Review Record (ERR)?

- The *environmental review record (ERR)* is the documentation created by completing the *environmental review process*.
- The **ERR**:
  - Provides a way for public citizens and officials a chance to review environmental impacts **BEFORE** any action is taken
  - Helps tell the story of the project
  - Leaves a “paper trail” showing due diligence for any potential future problems
  - A well-documented and maintained ERR is of the utmost importance because **IF IT'S NOT IN WRITING, IT DIDN'T HAPPEN**





## What is in the Environmental Review Record (ERR)?

- The **ERR** must contain:
  - Project Description
  - Statutory Checklist
  - Maps
  - Public Notices – Combined Notice (FONSI/NOI-RROF)
  - Documentation of determinations or findings as evidence of review, decision making, and action
  - Mitigation Measures
  - RROF-C (Request of Release of Funds and Certification – HUD Form 7015.15
    - All correspondence between regulatory agencies and localities/grantees
- The **ERR** must :
  - Be available and accessible for public review – Town Hall, Municipal Building, County Administration Building





# Who is responsible for information in ER?

- **RESPONSIBLE ENTITY (RE)** – the unit of local government (UGLG aka Ugg Lugg) (Town or County)
  - CDBG projects have to have the unit of local government as the grantee
  - For grantees that are non-profits (ARC grants), DHCD assumes the role of **RE** if the unit of local government is unable





# Who is the Certifying Officer?

- Is the highest-ranking ELECTED official (Mayor, Chair of the Board of Supervisors)
  - Can be delegated to other government officials (such as a town manager or county administrator) but MUST be in writing
    - An official designation form will be in the manual – but reach out if you need one
    - A grant manager (PDC, non-profit, consultant) can never be the CO – a grant manager would sign in the “Preparer” spot of the statutory checklist
- Has the legal capacity to carry out ER responsibilities
- Holds the responsibility to act on behalf of the Responsible Entity in the environmental review process
- Executes the Request for Release of Funds and Certification Form and certifies the Combined Notice (NOI-FONSI)
- Accepts jurisdiction in federal courts for RE



# Questions?





# THE FIRST STEP – Project Description

- The Project Description must include:
- Project Name
- Type of Construction
- Specific Location
- Types of Activities
- Time frame

**REMEMBER! If a project activity is not identified in the project description of the ERR – you CANNOT use grant funds for it**



gg79232727 GoGraph.com



● **Project Information**

- 
- **Project Name:** Duck Hollow CCD Project
- 
- **Responsible Entity:** Town of Possumville
- 
- **Grant Recipient** (if different than Responsible Entity):
- 
- **State/Local Identifier:** DHCD Project #25-19
- 
- **Preparer:** Kris Kangaroo, Marsupial Co. PDC
- 
- **Certifying Officer Name and Title:** Gretchen O’Possum, Mayor
- 
- **Grant Recipient** (if different than Responsible Entity):
- 
- **Consultant** (if applicable): Kris Kangaroo, Marsupial Co. PDC
- 
- **Direct Comments to:** Kris Kangaroo, Marsupial Co. PDC
- 
- **Project Location:** The Duck Hollow neighborhood of Possumville, bordered by Dobber Street to the North, Ellie Street to the West, Graham Street to the East, and Sheldon Street to the South, located within the Town’s limits.

**Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:** The Duck Hollow Water area of Possumville has been identified as having inadequate reliable, potable water access, in addition to needing housing rehabilitation services. Currently, residents rely on natural springs for water provision as no public water access is available. The \$3 million Duck Hollow Water project will oversee the new construction of public waterlines in the project area. Project activities include design and installation of approximately 1,000 linear feet (LF) of 6-inch water line, design and installation of approximately 2,000 LF of 4-inch water line, installation of 3 fire hydrants, and design and installation of all related appurtenances. A total of 28 households (76 people) will be connected to public water, with 20 of those households being low-and-moderate income (LMI) for a total of 55 LMI individuals. 10 total households (30 LMI individuals) have been designated to receive housing rehabilitation services, with 6 of those being slated for substantial reconstruction and 3 additional vacant buildings will be demolished. CDBG funds will account for \$1 million dollars of the total project cost, while ARC and local funding will cover the remaining shortfall. Project construction is anticipated to be completed within 18-months of contract date – summer 2027.

The Town of Possumville Welcomes You!



# Stop, AGGREGATE, and Listen!



- Don't do a separate environmental review for each separate piece of a total project if all components are necessary for project completion.

24 CFR 58.32 outlines project aggregation:

- A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.
- From our Possumville example:
  - Do one ERR for both the housing component and the water replacement component
  - DON'T do a separate ERR for the housing component and one for the water replacement component

# Mapping Your Project



- Make sure that someone who picks up the map knows what they're looking at
- Color-coding is encouraged, just make sure to make the color code easy to find
- The map should not leave a reviewer with unanswered questions about where the project is located
- Additionally, maps can be used to point out compliance with related laws/acts
- A map showing the project is not close to an airport, for example
- A good source for mapping:  
<https://nepassisttool.epa.gov/nepassist/nepamap.aspx>







# Questions?





## Step 2 – Determine Level of Review (From least level of review to most level of review)

Exempt

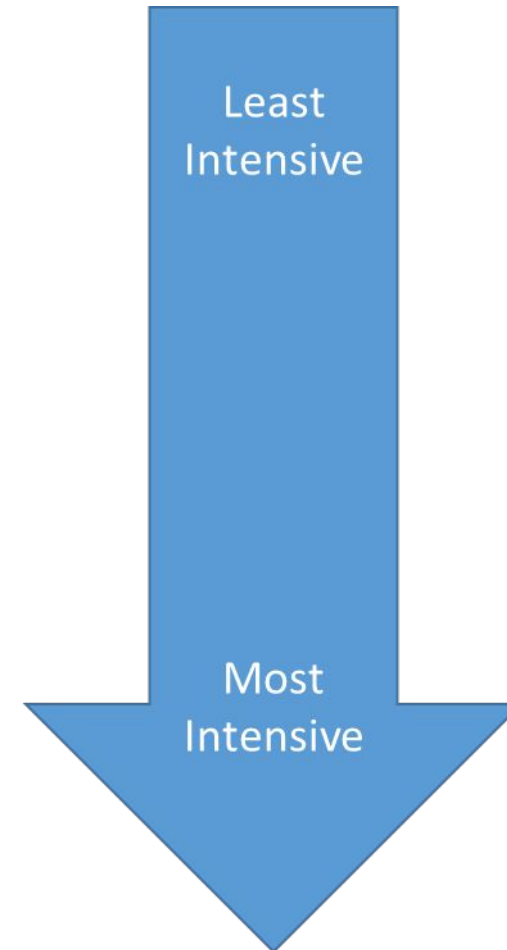
Categorically Excluded Not Subject to §58.5–CENST

Categorically Excluded Subject to §58.5–CEST

Environmental Assessment–EA

Broad-Level Tiered Review

Environmental Impact Statement–EIS



# Step 2- Determine Level of Review: Exempt/CENST



- **Exempt and Categorically Excluded Not Subject To 24 CFR Part 58 (CENST)**
- Activities which are deemed not to affect the human and/or physical environment
- Exempt Activities Examples:
  - Administrative Costs
  - Purchase of tools or equipment

## CENST Activities Examples:

- Operating Costs
- Economic Development Activities
- Homebuyers Assistance



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- Operating Costs
- Economic Development Activities
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# How to Complete the Exempt/CENST ERR



Per the 2017 Grant Management Manual in Appendix 2.A pg. 23, the steps for completing the ERR for an Exempt Project are:

- Completion of Certification of Exemption or Categorically Excluded (not subject to Section 58.5 Appendix 2.Ba)
- Completion of a Designation of Certifying Officer (if necessary)
- No publication/posting of the Combined Notice or RROF-C required

[Appendix 2.B \(pg 25-34\) ERR-CE.doc](#)



# Questions?





## Step 2 – Determine Level Of Review : CEST

Categorically Excluded Subject to §58 (CEST)

CEST projects are those where construction involves only replacement or renovation of existing facilities or structures and no disturbance to the previously undisturbed natural or built environment

Examples:

Replacement of water/sewer lines

Renovation of a building







## Step 2 – Determine Level Of Review : CEST – cont. CEST conversion to Exempt Status

- A CEST project can convert to Exempt status if any of the CEST activities on the previous slide (58.35 (a)) do not trigger a compliance finding
- For CEST projects that convert to Exempt, ERR will be completed the same as Exempt/CENST projects
- Completion of the Statutory Checklist Appendix 2A pages 5-6.
- Project does not require any compliance findings. Project then converts to exempt.
- Completion of Certification of Exemption or Categorical Exclusion (not subject to Section 58.5 Appendix 2.Ba)
- Completion of a Designation of Certifying Officer (if necessary)
- No publication/posting of the Combined Notice or RROF-C required



## CEST- Conversion to Exempt, cont.

- Box "A" has been checked for all authorities.** For Categorically Excluded actions pursuant to §58.35(a) [Does not apply to EA or EIS level of review which can never convert to Exempt], the project can convert to Exempt, per §58.34(a) (12), since the project does not require any compliance measures (e.g., consultation, mitigation, permit or approval) with respect to any law or authority cited at §58.5. The project is now made Exempt and a **contract may be issued by DHCD; OR**



## How to Complete the ERR for a CEST Project That Does Not Convert to Exempt

Per the 2017 Grant Management Manual in Appendix 2.A pg. 23, the steps for completing the ERR for an CEST Project are:

- Completion of the Statutory Checklist Appendix 2A pages 5-6.
- Completion of a Designation of Certifying Officer (if necessary)
- Completion of the Floodplain/Wetland 8-Step Process (if necessary)
- Combined Notice (NOI-FONSI) and RROF-C **are required**



# Questions?





## Step 2 – Determine Level Of Review : EA

### Environmental Assessment (EA)

A project that will involve new construction or significant expansion of existing facilities in which existing facilities or structures will be altered or the cultural environment will be disturbed.





# How can You Tell if a Project is EA Level of Determination?



IF YOU TURN DIRT,

↑  
**NEW**

AN EA IS NEEDED!



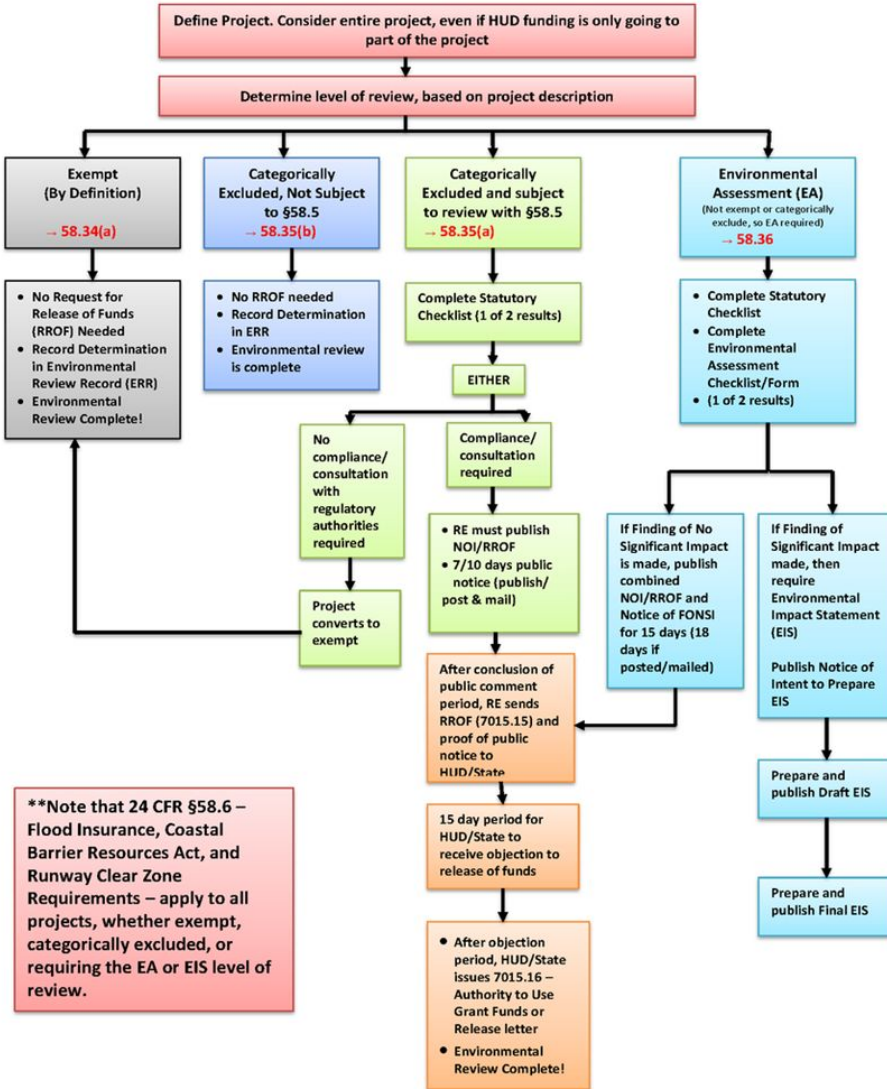
# Timing of the EA ERR



- Make sure to **START EARLY** with EA projects!!
- ERRs for EA projects take significantly longer than projects at lower levels of review – at least ~2 months, plus more time for consultation
- Exempt/CENST projects – as long as necessary to fill out the forms ~ 1 – 2 days
- CEST – at least a month, plus more time if consultation is needed
- The ERR process for an EA can be completed all the way up to the Combined Notice Posting/Publication part before the Contract Negotiation
- The Combined Notice and RROF-C have to be completed during the Pre-Contract Phase



## Environmental Review Process (To Be Conducted by Responsible Entity)



**\*\*Note that 24 CFR §58.6 – Flood Insurance, Coastal Barrier Resources Act, and Runway Clear Zone Requirements – apply to all projects, whether exempt, categorically excluded, or requiring the EA or EIS level of review.**

ERR Flowchart  
Part-58-Flowchart.  
[pdf](#)



# Questions?





# Step 3 – Conducting the Research





# Key Points When Completing Research

- Other than the 30 days given to Native American tribal nations when reaching out to an agency for consultation – it takes as long as it takes so START EARLY
- When corresponding with Native American tribal nations, it has to be governmental to governmental correspondence (it has to be on locality letterhead – not from PDC) <https://egis.hud.gov/TDAT/>
- Virginia has approximately 49,350 miles of river, but no designated wild & scenic rivers. Virginia does not have any designated rivers.
- Statutory Checklists cannot have blank sections or “N/A” – it is the biggest red flag
- Documentation should be easy to find within the ERR

**KEY POINTS**



# Step 3 – Conducting Research

Worksheet for Completing Statutory  
Checklist Day 2\Appendix 2.A (pg 21-24) ERR  
- JPREV WITH PART 2 - Copy.doc Pgs 7 -33  
Appendix 2.A

# Step 3 – Conducting Research – Appendix 2C



<u>Legislation and Regulations</u>	<u>State Agency</u>		
1. NOISE CONTROL ACT 42 U.S.C. 4903	Department of Transportation <a href="http://www.virginia.gov/">http://www.virginia.gov/</a> Department of Environmental Quality <a href="http://www.deq.virginia.gov/">http://www.deq.virginia.gov/</a>	8. WATER QUALITY (AQUIFERS) SAFE DRINKING WATER ACT 42 U.S.C. 300	Department of Environmental Quality <a href="http://www.deq.virginia.gov/">http://www.deq.virginia.gov/</a> State Health Department <a href="http://www.vdh.virginia.gov/">http://www.vdh.virginia.gov/</a>
2. HISTORIC PRESERVATION NATIONAL HISTORIC PRESERVATION ACT, 16 U.S.C. 470(f) SECTION 106	Department of Historic Resources <a href="http://www.dhr.virginia.gov/">http://www.dhr.virginia.gov/</a> <a href="mailto:Elizabeth.lipford@dhr.virginia.gov">Elizabeth.lipford@dhr.virginia.gov</a>	9. WILD AND SCENIC RIVERS WILD AND SCENIC RIVERS ACT 16 U.S.C. 1274 et. seq	Commission on Outdoor Recreation
3. FLOODPLAIN MANAGEMENT E.O. 11988 FLOODPLAIN MANAGEMENT	Department of Conservation & Recreation <a href="http://www.dcr.virginia.gov/">http://www.dcr.virginia.gov/</a> Virginia Marine Resource Commission <a href="http://www.mrc.state.va.us/">http://www.mrc.state.va.us/</a> Army Corps of Engineers (federal) <a href="http://www.usace.army.mil/">http://www.usace.army.mil/</a>	10. ENDANGERED SPECIES ENDANGERED SPECIES ACT 16 U.S.C. 1531, SECTION 7	Department of Game and Inland Fisheries <a href="http://www.dgif.virginia.gov/">http://www.dgif.virginia.gov/</a>
4. WETLANDS PROTECTION E.O. 11990 PROTECTION OF WETLANDS	Virginia Marine Resource Commission <a href="http://www.mrc.state.va.us/">http://www.mrc.state.va.us/</a> Department of Conservation & Recreation <a href="http://www.dcr.virginia.gov/">http://www.dcr.virginia.gov/</a> Army Corps of Engineers (federal) <a href="http://www.usace.army.mil/">http://www.usace.army.mil/</a>	11. AIR QUALITY CLEAN AIR ACT 42 U.S.C. 1857 42 U.S.C. 4362,7401, et. seq.	Department of Environmental Quality <a href="http://www.deq.virginia.gov/">http://www.deq.virginia.gov/</a>
5. HAZARDS	Department of Environmental Quality <a href="http://www.deq.virginia.gov/">http://www.deq.virginia.gov/</a>	12. COASTAL ZONE COASTAL ZONE MANAGEMENT ACT 16 U.S.C. 1451 et. seq.	Virginia Marine Resources Commission <a href="http://www.mrc.state.va.us/">http://www.mrc.state.va.us/</a> Department of Environmental Quality <a href="http://www.deq.virginia.gov/">http://www.deq.virginia.gov/</a>
6. SOLID WASTE DISPOSAL RESOURCES CONSERVATION AND RECOVERY ACT 42 U.S.C. 6901-6987	State Health Department <a href="http://www.vdh.virginia.gov/">http://www.vdh.virginia.gov/</a> Department of Environmental Quality <a href="http://www.deq.virginia.gov/">http://www.deq.virginia.gov/</a> Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) <a href="http://cumulis.epa.gov/supercpad/cursites/srchsites.cfm">http://cumulis.epa.gov/supercpad/cursites/srchsites.cfm</a>	13. WATER QUALITY CLEAN WATER ACT 33 U.S.C. 1251 et. seq.	Department of Environmental Quality <a href="http://www.deq.virginia.gov/">http://www.deq.virginia.gov/</a>
7. FISH AND WILDLIFE FISH AND WILDLIFE COORDINATION ACT 16 U.S.C. 661-666 (c)	Department of Game and Inland Fisheries <a href="http://www.dgif.virginia.gov/">http://www.dgif.virginia.gov/</a>	14. ARCHEOLOGY THE RESERVOIR SALVAGE ACT and ARCHEOLOGICAL & HISTORIC PRESERVATION ACT OF 1974 16 U.S.C. 469	Virginia Research Center for Archeology
		15. FARMLAND PROTECTION POLICY ACT OF 1981 7 U.S.C. 4201 et. seq.	Department of Conservation and Recreation <a href="http://www.dcr.virginia.gov/">http://www.dcr.virginia.gov/</a>
		16. COASTAL BARRIERS COASTAL BARRIERS RESOURCES &	Virginia Marine Resources Commission <a href="http://www.mrc.state.va.us/">http://www.mrc.state.va.us/</a>
			17. AIRPORT RUNWAYS & Department of Aviation 24 CFR PART 51 <a href="http://www.doav.virginia.gov/">http://www.doav.virginia.gov/</a>

# Step 3 – Conducting Research – HUD Exchange



<https://www.hudexchange.info/programs/environmental-review/federal-related-laws-and-authorities/>



# Step 3 – Conducting Research – HUD Exchange



<https://www.hudexchange.info/programs/environmental-review/federal-related-laws-and-authorities/>

# Step 3 – Conducting Research – Correspondence



- Utilize templates in Appendix 2C for letters to send to agencies/tribal nations
- [..\..\..\ERR\Appendix 2\Appendix 2.C \(pg 35-44\)  
ERR-Contact Info 06282016 - Copy.doc](#)



# Questions?



# Step 4 – Disseminate Combined Notice (NOI-FONSI) and Post/Publish



..\..\..\ERR\Sample-FONSI-and-RROF.docx  
Appendix 2F

## Step 4 – Disseminate Combined Notice (NOI-FONSI) and Post/Publish



- Where does the Combined Notice get sent?
- ..\..\..\ERR\Combined Notice FONSI Distribution Info as of 5.12.22.docx
- DEQ
- DHCD
- EPA
- Any interested parties
  - Any tribal nations that requested information during the research/consultation phase
  - DHR if they require a programmatic agreement

## Step 4 – Posting/Publication of Combined Notice



- **If POSTED, Combined Notice must be posted for 18 days (starting the next business day) at:**
  - **Project site**
  - **Locality's offices (Town Hall, County Administration Building, etc.)**
  - **Locality's website**
- **If PUBLISHED, must be a legal ad for 15 days**
- **After either 15/18 days are complete, 15 days are needed for the state objection period (DHCD) [..\..\..\ERR\ER Calendar.docx](#)**

## Step 4 – Request of Release of Funds and Certification (RROF-C HUD Form 7015.15)



- DHCD cannot execute a contract without a properly executed RROF-C
- RROF-C is to be emailed to your CDS
- Make sure to include the funding amount in the description box and all sources of funding<sup>9</sup>
- Make sure you're using the most updated RROF-C Form (available on our website, in Appendix 2, and on HUD Exchange)
- ERR is valid for 5 years from the RROF-C execution date, unless a project scope changes dramatically
- [..\..\..\ERR\RROFC 7015.15 Exp 8.31.23.pdf](#)

The background features silhouettes of two families holding hands. On the left, a man carries a baby on his back while holding the hand of a young girl. On the right, a man holds the hand of a young girl. The scene is set against a blue gradient background with a dark blue silhouette of a landscape at the bottom.

# THANK YOU

Contact  
Kelly Charapich  
Planning Grants Specialist  
[Kelly.charapich@dhcd.virginia.gov](mailto:Kelly.charapich@dhcd.virginia.gov)



VIRGINIA DEPARTMENT OF HOUSING  
AND COMMUNITY DEVELOPMENT  
*Partners for Better Communities*